



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2013-0935]

Regulated Navigation Areas and Limited Access Areas Waterway
Management; Apra Harbor, Guam

AGENCY: Coast Guard, DHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering revising and consolidating existing Regulated Navigation Areas, Security Zones and Safety Zones currently in place in Apra Harbor, Guam. This action is intended to replace a number of redundant, potentially confusing and outdated navigation regulations with a cogent regulatory framework. The goal is to better meet the needs of the community today and ensure the safe and efficient use of the harbor by clarifying and streamlining requirements thereby reducing vessel operator confusion while transiting the waters of Apra Harbor, Guam. We are soliciting comments related to navigation in Apra Harbor, Guam including ways the Coast Guard can streamline the regulations in place while promoting safety on the waterway.

DATES: Comments and related material must be received by the

Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Public meetings will be held from 12 p.m. to 2 p.m. and from 6 p.m. to 8 p.m. on January 22, 2014.

ADDRESSES: The public meetings will be held at the Port Authority Guam Building, 1026 Cabras Highway, Piti, Guam.

Documents mentioned in this preamble are part of Docket Number USCG-2013-0935. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. The following link will take you directly to the docket: <http://www.regulations.gov/#!docketDetail;=USCG-2013-0935>. If you do not have access to the Internet, you may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments, identified by docket number, using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: (202) 493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor,

Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or e-mail Mr. Terry Rice, Fourteenth Coast Guard District, U. S. Coast Guard; telephone (808) 535-3264, e-mail terry.l.rice1@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
ESQD	Explosive Safe Quantity Distance
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
RNA	Regulated Navigation Area

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received

during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this document. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We plan to hold two public meetings. The first meeting will be on January 22, 2014 at noon at Port Authority Guam, 1026 Cabras Highway, Piti, Guam. The second meeting will be on January 22, 2014 at 6 p.m. at Port Authority Guam, 1026 Cabras Highway, Piti, Guam. We plan to post the minutes and a written summary of

the meeting, including all comments made at the meeting, in the docket. For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact the person named in the "FOR FURTHER INFORMATION CONTACT" section, above.

5. Regulatory History and Information

Navigational regulations of Apra Harbor have been in place in various forms dating back to the era of U.S. Navy administration of Guam. Some of the regulations predate the promulgation of the Ports and Waterways Safety Act of 1972, were initially included in 33 CFR Parts 127 and 128, and subsequently re-codified in 33 CFR Part 165 on July 8, 1982 as part of a regulatory reorganization effort. The regulations in part 165 were subsequently amended in 1986, 1990, 1996, 1998 and 2003. Between 1972 and 2003 four Regulated Navigation Areas, three Security Zones and two Safety Zones were created and/or amended. One of the Security Zones was subsequently deleted, another changed to a Safety Zone, and an additional safety zone created.

Apra Harbor safety zones regulations in 33 CFR 165.1401 were last amended in 1990 (55 FR 18725, May 4, 1990). These zones were established as security zones in 1972 (37 FR 10800, 31 May 1972); amended in 1975 (40 FR 1016, Jan. 6, 1975); codified in 33 CFR 127.1401 (a) and (b) in 1982 as part of a regulatory reorganization effort (47 FR 29569, 29667, July 8, 1982); and

were subsequently disestablished and re-established as safety zones in 1990 (55 FR 18725, May 4, 1990).

Apra Outer Harbor regulated navigation area regulations in 33 CFR 165.1402 were established by 33 CFR part 165 (47 FR 29660, July 8, 1982), and amended in 1996, and subsequently again in 1998 (63 FR 35533, June 30, 1998).

Apra Outer Harbor regulated navigation area regulations in 33 CFR 165.1404 were first established in 33 CFR part 128 in 1972 (37 FR 10800, May 31, 1972). They were moved to 33 CFR part 165 in 1982 (47 FR 29569, July 8, 1982), and amended in 1996 (61 FR 33660, June 28, 1996; and subsequently in 1998 (63 FR 35524, June 30, 1998]).

Apra Harbor Security Zone C in 33 CFR 165.1404 was promulgated in 1990 (55 FR 18724, May 4, 1990).

Regulated Navigation Areas and Security Zones regulations in 33 CFR 165.1405 regarding; Designated Escorted Vessels-Philippine Sea and Apra Harbor Guam (including Cabras Island Channel) were established in 2003 (68 FR 4383, Jan. 29, 2003).

6. Basis and Purpose

The legal basis for this rulemaking is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-6, 160.5; Pub L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1

Currently there are four Regulated Navigation Areas (RNA), one Security Zone and two Safety Zones within and approaching Apra Harbor. These regulations, included in 33 CFR 165.1401, 165.1402, 165.1404 and 165.1405, while intended to improve the safety and security of Apra Harbor and the mariners operating therein, are potentially confusing, overlapping, and do not adequately address current needs. The purpose of this ANPRM is to solicit comments on how to revise and simplify the current rules, taking into account relevant safety and security navigational requirements for the waters of Apra Harbor (including approaches). This proposed rulemaking will create a regulatory scheme that ensures the needs of all stakeholders are addressed in a concise, understandable format.

7. Discussion

As noted, the regulatory scheme in Apra Harbor does not meet current needs. A thorough review and consolidation of the Regulated Navigation Areas and Limited Access Areas (Safety or Security Zones) will simplify harbor transit communication, lessen confusion regarding harbor transit requirements, and address current safety and security concerns of all stakeholders.

A *Regulated Navigation Area* is a water area within a defined boundary for which regulations for vessels navigating within the area have been established. See 33 CFR 165.10.

A *Safety Zone* is a water area, shore area, or water and shore area to which, for safety or environmental purposes, access

is limited to authorized persons, vehicles, or vessels. It may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. See 33 CFR 165.20.

A *Security Zone* is an area of land, water, or land and water which is so designated by the Captain of the Port or District Commander for such time as necessary to prevent damage or injury to any vessel or waterfront facility, to safeguard ports, harbors, territories, or waters of the United States or to secure the observance of the rights and obligations of the United States. See 33 CFR 165.30.

The Coast Guard is considering:

- Consolidating the existing four RNAs, (33 CFR 165.1405(a)(1), (a)(2), (a)(4) and 165.1402(a)), into one Regulated Navigational Area that addresses the waters of the Apra Harbor Channel entrance and all waters of the Apra Harbor outer harbor.
- Expanding the radius of the existing Kilo Wharf Safety Zone (33 CFR 165.1401(b)) into a series of two or three safety zone radius options based upon the volume and type of cargo transferred at Kilo Wharf, thereby optimizing harbor operations viability and personal safety.
- Removing Hotel Wharf Safety Zones A and B (33 CFR 165.1405.1(a) and (b)) due to obsolescence.
- Retaining Security Zone C, Buoy 702 (33 CFR 165.1404). This zone surrounds a permanent mooring buoy reserved for

specific vessels.

B. Information Requested

Public participation is requested to assist in determining the optimal way forward. The Coast Guard is seeking to identify what problems mariners and the public are experiencing with the current regulatory scheme, including but not limited to: the impacts of existing safety and security zones; suggestions for regulatory amendment to improve navigation while assuring safety concerns are adequately addressed; and potential impacts if the Kilo Wharf Safety Zone is amended to include a flexible expansion capability during periods of increased munitions cargo volume operations. The Coast Guard also seeks to determine the viability of alternative vessel transit and cargo operations methodologies (e.g., night vs. daylight cargo transfers, or alteration of charter operator schedules or locations).

Again, the Coast Guard seeks input for aid in developing a proposed rule. Please submit any comments or concerns you may have in accordance with the "submitting comments" section above.

This document is issued under the authority of 5 U.S.C. 552 (a); 33 CFR 1.05-1, and 1.05-30.

Dated: December 18, 2013

C. B. THOMAS

Rear Admiral, U.S. Coast Guard

Commander, Fourteenth Coast Guard District

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